IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR. JUSTICE J.CHELAMESWAR
And
THE HON'BLE MR. JUSTICE D.APPA RAO

WRIT PETITION NO. 23100 OF 2006

Between:

M/s. Mayuri Film Distributors,
Ramoji Film City, Hayathnagar Mandal,
Rangareddy District,
Rep. by its General Manager,
Sri G. Sudhakar

Petitioner

AND

The Commercial Tax Officer,
Vanasthalipuram Circle,
M.J. Market Road,
Nampally, Hyderabad and another

Respondents

Dated: 17th November, 2006

ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is a proprietary concern and a

registered dealer with the first respondent under Central Sales Tax Act, carrying on business in distribution and marketing of films and audio-cassettes. During the assessment year 2002-2003, the petitioner claims to have transferred some of its products to various States where the petitioner claims to have branches of its establishment and, therefore, claimed that those transfers are exempted from levy of Central Sales Tax. These sales, which are popularly called in tax parlance as *consignment sales*, are required to be made against declaration in Form 'F' issued by the concerned State, where actually the sales take place.

With reference to the turnover, representing the above mentioned *consignment sales*, the petitioner, it appears, did produce necessary Form 'F' declaration covering only a part of the period and for the remaining period, the petitioner could not produce Form 'F' declaration. Therefore, that part of the turnover representing the alleged *consignment sale* was brought to tax by the respondents. Aggrieved by the same, the petitioner carried the matter in appeal before the Second Respondent, which is still pending. During pendency of the appeal, the petitioner also filed an application seeking stay of recovery of the disputed tax and the said application was rejected by the second respondent by his

order dated 10.07.2006. Aggrieved by the same, the petitioner carried the matter in revision before the third respondent and the said revision was also dismissed by order dated 25.9.2006. Hence, the present writ petition is filed with a prayer as follows:

> "…For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly in the nature of writ of Mandamus declaring the order passed by the Additional Commissioner (CT)(Legal), Hyderabad, in No. L.III(3)/707/2006-2 dated 25.09.2006 as illegal, void and inoperative and set aside the same and (ii) interdict the respondent authorities from collecting balance disputed tax of Rs.6,18,839/- until disposal of the appeal No.S/78/2006-2007 by the Appellate Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad, 2nd respondent herein…"

It is a settled law that the proof of a fact that certain transactions are entitled to be taxed at a lower rate can be produced even at the stage of appeal.

Learned counsel for the petitioner argued that since Form 'F' declarations are to be obtained from various States from the concerned authorities of the State, the petitioner is not in a position to immediately produce the same before the respondent and, therefore, reasonable time has to be granted to the petitioner, to be able to

produce necessary proof.

Heard the learned Government Pleader.

In the circumstances, we are of the opinion that the matter can be disposed of at the stage of admission, by directing the respondents not to take coercive steps for collection of the disputed tax, on the condition of the petitioners depositing 50% of the disputed tax within six weeks from today. If any amount is paid already towards the disputed tax, the same shall be given credit to, while computing the above mentioned 50% amount.

The writ petition is accordingly disposed of. No order as to costs.

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J.Chelameswar, J.

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D.Appa Rao, J.

November 17, 2006
MAS.